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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August 1996, at 3 p.m.

Chairman: Mr. EIDE

later: Mr. ALI KHAN

Mr. EIDE

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The meeting was called to order at 3.10 p.m.

CONTEMPORARY FORMS OF SLAVERY (agenda item 15) (continued) (E/CN.4/Sub.2/1996/24, 25 and Add.1, and 26; E/CN.4/Sub.2/1996/NGO/19; E/CN.4/1996/100)

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS:

(a) THIRTIETH ANNIVERSARY OF THE ADOPTION OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

(c) HUMAN RIGHTS AND DISABILITY (agenda item 16) (E/CN.4/Sub.2/1996/27 and 34; E/CN.4/Sub.2/1996/NGO/22)

1. Mr. KERN (International Labour Office), speaking on agenda item 15, referred to the summary, presented by Ms. McDougall on behalf of the Special Rapporteur of the preliminary report on an in-depth study of systematic rape, sexual slavery and slavery-like practices during wartime, including internal armed conflict (E/CN.4/Sub.2/1996/26). He recalled that Mr. Hatano had subsequently queried the findings of the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization (ILO) regarding Japan's possible violation during and prior to the Second World War of the ILO Forced Labour Convention, 1930 (No.29), ratified by Japan in 1932. He pointed out that the members of the Committee of Experts served in a personal capacity and were impartial individuals of technical competence and independent standing from all parts of the world, including Japan. Mr. Hatano had argued that the Convention made an exception for labour required during wartime. But article 2 referred to work "of a purely military character" and the Committee had found that the sexual abuse of women detained in so-called military "comfort stations" fell within the prohibitions contained in the Convention. With regard to the exception relating to work "in cases of emergency", the Committee had specified in its General Survey on the Abolition of Forced Labour (1979) that the power to call up labour should be confined to genuine cases of emergency and that the duration and extent of compulsory service should be limited to what was strictly necessary. Article 25 required States that had ratified the Convention to ensure that the penalties imposed by law for the illegal exaction of forced labour were adequate and strictly enforced.

2. Ms. AULA (Pax Christi International) said that the rights of street children could be divided into three categories: survival rights, which included the right to food, shelter and medical treatment; development rights, which included access to education, information, play, leisure and cultural activities and the right to freedom of thought, conscience and religion; and protection rights, which unfortunately included in many countries protection against ill-treatment by the police. Street children, both boys and girls, were also prime candidates for sexual exploitation. Prostitution was viewed as just one means of survival among others by children with no family or prospects in both industrialized and developing countries.

3. Her organization's work to prevent the participation of children in armed conflict focused on article 38 of the Convention on the Rights of the Child, which set a minimum age of 15 years for military service. It strongly supported the adoption of an optional protocol on article 38 that would raise the minimum age from 15 to 18 years.

4. Her organization also actively campaigned against anti-personnel land-mines, which had a disastrous effect after the cessation of hostilities on development and reconstruction and on the return of refugees and internally displaced persons, particularly children, to their homes. She strongly urged the Sub-Commission to reaffirm the position it had adopted in resolution 1995/24 in support of a total ban on anti-personnel land-mines and laser weapons.

5. Mrs. Heisoo SHIN (Commission of the Churches on International Affairs of the World Council of Churches), speaking on agenda item 15, commended the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1996/24), the preliminary report of the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26) and the report by the Special Rapporteur on violence against women to the Commission on Human Rights on military sexual slavery (E/CN.4/1996/53/Add.1) which, contrary to the assertion of the Japanese Government, had been adopted by the Commission.

6. A further encouraging development was the reluctant acknowledgement by the Government of Japan of the existence of the system of military sexual slavery, under which 200,000 Asian and Dutch women had been conscripted before and during the Second World War. However, there was still no prospect of an early resolution of the issue. The surviving victims and the NGOs representing them had consistently demanded a full fact-finding exercise and State reparations but the Japanese Government, instead of admitting legal responsibility, had set up a private fund-raising charity called the "Asian Women's Fund". Such "consolation" money was unacceptable to the victims, who were more concerned to recover their human dignity and lost honour. Representatives of the Fund had recently paid unwelcome visits to women in the Republic of Korea, Taiwan and the Philippines and the same three States had withdrawn from a recent symposium on women's rights in Tokyo when they discovered that the Fund was sponsoring the event alongside the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP).

7. If the Government of Japan wished to settle the dispute concerning legal responsibility, it should agree to have the issue brought before the Permanent Court of Arbitration in The Hague, as recommended by the Working Group on Contemporary Forms of Slavery at its nineteenth session.

8. Ms. SPALDING (African Commission of Health and Human Rights Promoters), speaking on agenda item 16 (c), said that land-mines continued to be viewed as scandalous by anyone with a moral sense and urged the Sub-Commission to call for a total ban on their production and use.

9. The recommendations made by the Special Rapporteur of the Commission for Social Development on disability in his extremely sensitive study entitled

Human Rights and Disabled Persons (United Nations publication, Sales No. E.92.XIV.4) were unfortunately not being implemented and the study had not even been mentioned in a recent article by Disabled People's International decrying the lack of effective United Nations partnership with disabled persons. She also drew attention to Commission on Human Rights resolution 1996/27 concerning the human rights of persons with disabilities, which was a powerful statement of concern that such issues were no longer being accorded the priority they deserved. The Sub-Commission's mandate in the area was clear and should be resolutely implemented.

10. Mr. TOTSUKA (International Fellowship of Reconciliation - IFOR) said that his organization welcomed the significant progress made by the United Nations on the issue of the military sexual slavery that had been practised by Japan and the report of the Committee of Experts on the Application of Conventions and Recommendations of the ILO to the 1996 International Labour Conference, which found that Japan had violated the ILO Forced Labour Convention, 1930 (No. 29). Everything suggested that Japan should assume its State responsibility by acknowledging its violation of international law.

11. However, none of the recommendations made had been accepted by the Japanese Government. Instead, despite vigorous and consistent protests from many victims and NGOs, Japan had started to implement its Asian Women's Fund policy on 13 August. That Fund could hardly be seen as a positive step towards reconciliation, since the overwhelming majority of the victims in the Republic of Korea and Taiwan were rejecting it. Moreover, the methods of persuasion employed by the Japanese Government and the Fund were imposing enormous stress on the victims.

12. The question as to who paid did matter. Many victims were refusing money from civilian donations and demanding State compensation, since it was the State that had been responsible for the crimes committed against them. Moreover, the information concerning payments provided by the Fund and by the Japanese Government was contradictory. Nobody knew the truth, and the unchanged policy of the Japanese Government was disturbing the victims further.

13. In addition, despite a strong demand from the victimized countries and United Nations bodies, no formal fact-finding by the Japanese State had been undertaken since August 1994. Some positive responses to the United Nations recommendations had, however, emerged in the Japanese Diet, where a movement for legislation to bring about a real solution had been initiated.

14. It was reported that Prime Minister Ryutaro Hashimoto would give a letter of owabi - a Japanese term meaning "Excuse me" but not "apology" - to the victims. Nobody believed, however, that his owabi would include acknowledgement of the violation of international law, crimes against humanity or State legal responsibility identified by the Special Rapporteur on Violence against Women and the ILO Committee of Experts.

15. In conclusion, his organization requested the Sub-Commission to endorse the recommendations made by the Working Group on Contemporary Forms of Slavery and to encourage Ms. Chavez to complete her report and urged the Japanese Government to consult with the victims and NGOs that were rejecting the Asian

Women's Fund, to cooperate with Diet members in their legislative efforts to promote State fact-finding on the issue and in establishing a special committee of the Diet to consider the recommendations made by various United Nations bodies and the ILO.

16. The CHAIRMAN invited government observers to make any comments they considered appropriate.

17. Mr. MINE (Observer for Japan) provided information on developments with regard to the Asian Women's Fund and the relevant measures taken by the Government of Japan on the issue known as "wartime comfort women" since the most recent session of the Working Group on Contemporary Forms of Slavery held in June 1996. First of all, he had great pleasure in announcing that today, 14 August 1996, the Asian Women's Fund had offered atonement money in the amount of 2 million yen, or approximately US$ 20,000, to the former comfort women in the Philippines.

18. At the same time, they had received the following letter from Prime Minister Ryutaro Hashimoto:

> "As Prime Minister of Japan, I thus extend anew my most sincere apologies and remorse to all the women who underwent immeasurable and painful experiences and suffered incurable physical and psychological wounds as comfort women.
>
> We must not evade the weight of the past, nor should we evade our responsibilities for the future.
>
> I believe that our country, painfully aware of its moral responsibility, with feelings of apology and remorse, should face up squarely to its past history and accurately convey it to future generations."

19. The Government of Japan had also decided to provide approximately 700 million yen, or approximately US$ 7 million, out of the national budget for the medical and welfare support projects of the Asian Women's Fund. Those projects would be realized in consultation with the Governments and organizations of the countries concerned, taking full account of the actual circumstances of the former "wartime comfort women".

20. Furthermore, attaching great importance to the school education programme on that issue, the Government of Japan was intensifying its efforts so that the young generation could correctly understand the facts of modern Japanese history. Most high school textbooks now contained a reference to the issue of "comfort women", and all junior high school textbooks would do so as from the next school year. In addition, the Asian Women's Fund was contributing to the solution of contemporary issues relating to the human rights of women.

21. The Government of Japan, in taking those steps, had listened carefully to the opinions expressed by members of the Sub-Commission and hoped that the Sub-Commission would duly take into account the sincere efforts made by the Asian Women's Fund, the Government of Japan and the Japanese people on that issue.

22. With regard to the reference to the ILO made by Ms. McDougall at the 12th meeting, he wished to remind members of the Sub-Commission that the International Labour Conference, at its eighty-third session, had not taken up the observation on the comfort women issue made by the Committee of Experts on the Application of Conventions and Recommendations. A brief reference had also been made to the interpretation of the international law on the subject. In that connection, it should be borne in mind that the Japanese Government had submitted its position on the subject to the Commission on Human Rights at its fifty-second session and that the relevant information was still available.

23. Mr. Joun Yung SUN (Observer for the Republic of Korea) noted that women had always been especially vulnerable in situations of conflict and in wartime. The issue of military sexual slavery during the Second World War therefore remained a matter of great concern to his country, which appreciated and supported the conclusions reached at the fifty-second session of the Commission on Human Rights on the basis of the report of the Special Rapporteur on violence against women. His Government had also taken note of the report on the subsequent session of the Working Group on Contemporary Forms of Slavery and welcomed the appointment of Ms. Linda Chavez as Special Rapporteur with the task of undertaking an in-depth study of the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict. It commended Ms. Chavez's preliminary report, in which it took particular note of the section on the military sexual slavery perpetrated by the Japanese Imperial Army during the Second World War, and looked forward to the submission of the final report at the Sub-Commission's next session.

24. His Government did not seek any material reparations from the Japanese Government for the victims of military sexual slavery. Instead, it continued to urge the Japanese Government to unearth the historical truths of the issue in a frank and thorough manner so as to provide future generations with historical lessons to prevent the recurrence of similar tragic and inhumane acts. In that context it recognized as a step forward the Japanese Government's approval of the publication, in next year's middle school textbooks, of a mention of the historical truths concerning military sexual slaves during the Second World War, albeit in a limited way. His Government was still concerned, however, that some Japanese politicians continued to mask historical truths with distorting statements. Their comments might have given rise to some undesirable movements in certain Japanese circles that were attempting to delete the relevant paragraphs from the textbooks. His Government would continue to pay close attention to the matter. With regard to the issue of reparation for individual victims, it considered it essential that the Japanese Government should come forward with measures acceptable to the victims as well as to the related NGOs and called upon it to take appropriate measures without delay.

25. Ms. HERNANDEZ QUESADA (Observer for Cuba) praised the work done by the Working Group on Contemporary Forms of Slavery. Her delegation looked forward to receiving the final version of the report of the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during wartime, including internal conflict which would help to promote the measures needed to avert any repetition of the "comfort women" issue. Unfortunately,

her delegation had had difficulty in obtaining official Spanish versions of that report and also of the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1996/24).

26. The virtually universal ratification of the Convention on the Rights of the Child and the existence of large numbers of street children confirmed the need to adopt an optional protocol on the sale of children, child prostitution and child pornography - practices which were increasing as poverty deepened through the implementation of structural adjustment policies and the accompanying cuts in social expenditure. In the market for such practices the demand came almost entirely from developed countries, while the victimized children were supplied by families too poor to offer them the basic essentials of life. The problems concerned could therefore be solved only by the eradication of poverty through all-round development in a caring society.

27. There was, in fact, an incredible unwillingness to recognize the existence of fraudulent adoptions, child prostitution, child pornography and the sale of children's organs for transplants. However, in prohibiting any trafficking in organs for transplants on 14 September 1993, the European Parliament had noted that there was evidence that in some developing countries foetuses, children and adults had been mutilated or killed for the purpose of offering organs for export to rich countries. That was more than sufficient reason to speed up the implementation of Commission on Human Rights resolution 1996/61.

28. Another important subject was the protection of the human rights of women, especially in the light of the draft programme of action for the prevention of the traffic in persons and the exploitation of the prostitution of others (E/CN.4/Sub.2/1995/28/Add.1). Legislation on prostitution and pornography differed in severity, of course, according to the cultural and historical experience of each society, but her delegation considered that any act designed to denigrate, humiliate or exploit or that trafficked in human intimacy constituted a violation of human rights regardless of sex, race, age or social status. It therefore fully supported the work being done on the subject in all relevant forums of the United Nations system.

29. Mr. PAK Dok Hun (Observer for the Democratic People's Republic of Korea) noted that the Special Rapporteur on violence against women had visited Japan and the countries which it had victimized and had called upon the Japanese Government to assume moral and legal responsibility for its crimes. The Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict had also pointed out the crimes committed by the Japanese Imperial Army in her preliminary report (E/CN.4/Sub.2/1996/26), while at the fifty-second session of the Commission on Human Rights many government delegations and NGOs had condemned the past crimes of Japan. Nevertheless, some Japanese authorities still claimed that their past aggression had been a just action and that the comfort-women issue was not based on historical fact. The purpose of the Asian Women's Fund was to enable Japan to avoid its moral and legal responsibility and to cover up its crimes with a small sum of money.

30. The country that had suffered most from Japanese atrocities was, in fact, Korea. Japan argued that its past crimes had been made good by the

Treaty of San Francisco and other relevant agreements, but its responsibility for its past crimes had not been liquidated, despite all the talk of "good-neighbourly" relations. Moreover, Korean residents in Japan were being beaten and humiliated and there was a threat to enact an "emergency law" against them.

31. Mrs. JANJUA (Observer for Pakistan) said that her country, like all countries in South Asia, was confronted with the problem of child labour, which had its roots in poverty, a low level of literacy and multiple socio-economic factors. Some time previously, a figure of 20 million child labourers in Pakistan had been quoted by an NGO without any substantive empirical evidence and it had subsequently been used by the world media and by some respected NGOs without further verification. In order to ascertain the true dimensions of the problem, Pakistan had entered into an arrangement with the ILO under the IPEC programme to carry out a study whose results were due to be available within a couple of months. The Government of Pakistan expected the numbers involved in child labour to be significantly less than the 20 million quoted.

32. In addition to the legal framework available to eliminate child labour, the authorities at the district level had been carrying out on-the-spot inspections of establishments employing child labour and those found guilty of offences had been prosecuted and, in a number of cases, convicted. Moreover, on 17 March 1996 the Prime Minister herself, in a letter to the Chief Ministers of the four provinces, had instructed them to contain and eradicate child labour, to streamline the implementation of the laws already in place, to launch integrated programmes for the rehabilitation of displaced child labourers, and to draw up a comprehensive programme for their welfare, education and health care. Formal primary education and vocational training would be provided to children withdrawn from their workplaces in 35 rehabilitation centres.

33. The remnants of all forms of bonded labour were expected to be uprooted by the Bonded Labour System (Abolition) Act of 1992 and by the Islamic underpinnings of society that rejected all forms of slavery. In the same letter the Prime Minister had urged the Chief Ministers to gear up the provincial implementation machinery to ensure the effective enforcement of the relevant laws on bonded labour. Moreover, vigilance committees had been set up and would include representatives of both labour and employers. On-the-spot inspections had also been carried out to free bonded labourers, offering ample evidence of the Government's serious commitment to come to grips with the problem.

34. Unfortunately the tirade of disinformation against Pakistan was continuing in the Sub-Commission. Before criticizing the human rights situation in Pakistan, the observer for an Indian NGO who had presented a deliberately lopsided view of contemporary forms of slavery in South Asia would have done better to take note of the statistics on the appalling violence against Indian women reported in the Indian daily newspaper The Pioneer. In any case, caution should be exercised by NGOs in bringing issues before United Nations meetings.

35. Mr. EL MUFTI (Observer for the Sudan) said that his Government believed in treating seriously any accusations levelled against it by States, United Nations bodies or NGOs, as the best way of establishing the facts and taking any necessary measures in accordance with international law, while preventing such accusations from being used as a political weapon.

36. With regard to the accusations made under agenda item 15, in December 1995 the General Assembly had called on the Sudan to investigate the accusations made against it by the Special Rapporteur on the situation of human rights in the Sudan and NGOs, including Christian Solidarity International and the World Federalist Movement. His Government had responded swiftly to that appeal, setting up an investigatory committee in March 1996, with powers to impose penal sanctions on individuals implicated in those illegal and unethical practices. On the occasion of the Special Rapporteur's visit from 1 to 7 August 1996, he had been given an opportunity to meet that committee and to familiarize himself with its working methods. The committee had made it clear to the Special Rapporteur that he could meet 33 persons alleged to have disappeared. Those meetings had been documented and photographed. It was possible for anyone to meet the persons in question and to ascertain that they were living normal lives and not being ill-treated. The committee was due to submit its preliminary report to the Minister of Justice on 15 August 1996, before resuming its field visits, which were sometimes hampered by extreme weather conditions. On its own initiative, the Government had invited the Working Group on Contemporary Forms of Slavery to visit the Sudan whenever it saw fit. On 11 July 1996 the Foreign Ministry had issued a statement making clear the Government's position concerning the accusations. Inter alia, it had stated that the Sudan was committed to all instruments banning those practices, that it condemned all forms of slavery, and that strict measures would be taken against persons implicated in those abominable practices. Those measures showed the importance the Government attached to the matter, regardless of the groundless allegations made by NGOs.

37. Christian Solidarity International was in fact an extremist Christian organization which sought to foment discord between Muslims and Christians, who had always coexisted peacefully in the Sudan, as was demonstrated by the participation of adherents of both creeds in the Government. Christian Solidarity International and the World Federalist Movement would of course repeat those allegations at the forthcoming session of the General Assembly. Nevertheless, his Government would continue to treat such accusations seriously.

38. Mrs. PALALA (Observer for the Philippines), speaking on agenda item 15, said that her delegation took note of the apologies that had been expressed by the Prime Minister of Japan, through the Asian Women's Fund, at formal ceremonies held that same day in Manila. It hoped that nations would learn from the abundant lessons taught by war and would strengthen their faith in the United Nations, so that future generations would never again witness the inhumanity meted out by man to his fellow man in wartime.

39. Mr. MAXIM thanked those NGOs - all too few, alas - who had contributed to the work of the Working Group on Contemporary Forms of Slavery. In spite of the difficulties encountered, the Working Group had fulfilled its tasks very satisfactorily. It was only through cooperation with States that that

phenomenon could be eliminated; the Working Group had succeeded in establishing a fruitful dialogue with a number of States, as well as acting as a sort of bridge between NGOs and Governments. The more aware States became of its mandate and aims, the readier they would be to join with the Working Group and the Sub-Commission in seeking solutions.

40. He had listened with interest to the statement made earlier in the meeting by the observer for Japan, from which he derived great satisfaction. That statement showed how much progress had been made over the past three years with regard to a problem that dated back half a century. While the solutions proposed by the Government of Japan might not be totally acceptable to all, they should none the less be hailed in a spirit of realism, as should the Japanese Government's constructive attitude. As a former Chairman of the Working Group, he considered it both a duty and an honour to acknowledge the excellent relations it had enjoyed with the observers for the Government of Japan, who had always expressed an interest in its opinions and suggestions. He therefore proposed that the wording "Takes note of the information provided by the Government of Japan", in paragraph 2 of recommendation 11 of the Working Group, should be amended to read "Welcomes the information provided ...".

41. Mr. FAN Guoxiang said he had listened with interest to the various statements made by NGOs and government observers on the question of Asian comfort women, including the statement by the observer for Japan, who had reiterated his Government's apology and expressed its readiness to listen to the criticisms voiced by the various parties, with a view to reaching a speedy solution.

42. He had a few personal comments to offer. In his view, while the question of the Asian comfort women was intrinsically a very serious one, it should also be closely related to the context of the Second World War, which the Japanese military had claimed to be a patriotic war waged against non-Asians. Unfortunately, that idea still persisted in the minds of certain political forces within Japan: only recently, Japanese political leaders had worshipped at a shrine dedicated to the so-called "patriotic" ancestors who had died in the Second World War. Such actions naturally provoked strong reactions elsewhere in Asia.

43. If the Japanese Government had been willing sincerely and frankly to admit its responsibility for what had been, not a patriotic war, but a war of aggression, the question of the comfort women could have been settled long ago. Admittedly, some Japanese government leaders had more than once offered apologies; unfortunately, however, others had declined to do so. In his view, responsibility lay with the Japanese Government, not with the Japanese people, who were not to blame, who had also been victims of the military, and who could not be expected to make amends for their Government's past misdeeds.

44. Why had the Japanese Government taken so long to settle an issue that might have been resolved 30 or 40 years previously? That long delay had not helped matters. From the political and moral standpoints, a greater readiness on the part of the Japanese Government to listen to the criticisms voiced by the NGOs and Governments involved and to show a cooperative attitude, rather

than resting content with the measures it had taken or now proposed to take, would enable the question to be finally resolved to the satisfaction of all concerned.

45. Mr. YOKOTA said he wished first to voice his own personal feelings on the issue of the Asian comfort women. Mr. Fan Guoxiang had just opined that it was not the Japanese people but the Japanese Government that was responsible. That was true up to a point. None the less, his own feeling of sadness that Japan had once forced so many women into slavery was also tinged with guilt. It was not enough simply to leave it to the Government to apologize, accept sole responsibility and compensate the victims: the Japanese people, too, must accept their share of responsibility and guilt, and must do their utmost to ensure that there could be no recurrence of those tragic events.

46. He wished to place the issue in historical perspective. The year after the issue had first been raised in the Sub-Commission, the observer for Japan had stated that the Japanese Government and military bore the responsibility for the establishment of the comfort stations, had offered apologies, and had stated his Government's commitment to alleviate the sufferings caused. At that point, a very influential member had stated that the Sub-Commission welcomed such positive responses from Governments to serious human rights issues. The Japanese Government had later come up with the specific proposal to create an Asian Women's Fund. At the forty-seventh session, Ms. Chavez, in connection with her mandate as Special Rapporteur, had stated that in her view the Japanese Government should act promptly - on moral grounds, regardless of the legal issues, which would take some time to resolve - to compensate the victims, who were growing old and many of whom were in poor health.

47. Meanwhile, in his capacity as an alternate member, he himself had gleaned members' views on the issue, submitting them to his Government in September 1995 together with the relevant resolution of the Sub-Commission (E/CN.4/Sub.2/1995/16), paragraph 39 of which welcomed the recent measures taken by his Government. Shortly afterwards he had been appointed to the Advisory Committee on the newly created Fund. Although he had a few reservations regarding that Fund, he had felt that to make it operational would be one way of securing progress. As Chairman of the Advisory Committee he had spent many hours trying to ensure that the views expressed by members of the Sub-Commission were fully reflected. In his view, the response of the Japanese Government, albeit not 100 per cent satisfactory, had been positive and was thus to be welcomed.

48. The main concern of the Advisory Committee was now to act swiftly to compensate the victims, in view of their advanced age or poor state of health. While respecting the views of those victims who saw the Government as solely responsible and thus did not wish to accept money from the Japanese people, he had tried to get things moving, seeking government funding, not for the US$ 20,000 atonement payment, but for the medical care and welfare component. It was not true to say, as had been alleged, that threats or intimidation had been used to pressurize victims into accepting help from the Fund. The Committee had engaged in dialogue with the victims and had in all cases respected their feelings. Those victims who felt able to accept assistance from the Fund should thus feel no qualms about doing so.

49. Pending a final solution, which, for legal reasons, would take a long time to achieve, the Fund, albeit an imperfect solution, would serve to convey to the victims the feelings of the Japanese people and Government. It was also an example of constructive dialogue between a human rights organ and a member Government, in which a member - or in the present case an alternate member - of the Sub-Commission had been able to act as a sort of promoter or coordinator.

50. Mr. H.K. SINGH (Observer for India), in a statement equivalent to a right of reply concerning the statement by Centre Europe-Tiers Monde, said that his delegation was conscious of the existence of cases of ill-treatment of domestic employees and had thus examined the case in question in considerable detail. It had also been called upon by its own authorities to make a detailed investigation, as the matter pertained to an Indian citizen. His comments on the case were as follows.

51. Mr. Ram Roop had been taken away by police while out on an evening walk - he had not gone to the police of his own accord. The police had not contacted the Indian Consulate in Geneva and had instead handed him over to an NGO. It had taken a week for the Consulate to be allowed one meeting with Mr. Ram Roop in order to assure itself of his welfare; and he had still to be handed over to the protection of the Indian Government.

52. The individual concerned was not a minor. Individuals took domestic employment in order to amass savings with which to improve their prospects in life. The salary paid would amount to substantial savings when the individual returned to India. In the present case, the salary agreed upon had been fully paid by the employer.

53. His delegation had received several requests from the father asking for his son to be repatriated. His Government had therefore agreed to pay his passage home. The father's requests had been for money which was not payable as a matter of principle or in accordance with Indian law, for such a payment would be tantamount to extortion. Full-time domestic employees in India were treated as family members and every aspect of their welfare was looked after by the employer. Cases of ill-treatment were punishable in accordance with the law. The same was not true of the case in question, since the employer had undertaken full responsibility for Mr. Ram Roop's welfare, including all expenses incurred for board, lodging, clothing and other basic necessities and complete medical cover. As a full-time live-in employee he had obviously been given suitable accommodation under the same roof.

54. The report of the medical examination undertaken made it clear that there had been no sign of abuse of any kind. His delegation accepted that the agreement between employer and employee had broken down and that the bonding which normally existed in such cases was no longer there. It was on that basis, and in view of the requests received from his family, that his Government had agreed to pay for Mr. Ram Roop's repatriation. As to the remarks attributed to the diplomat, it was extremely unlikely that any diplomat would use such language, and the remarks had been denied.

55. Mr. AGUILERA (Observer for Guatemala) read out a press release issued earlier in the day by his Government. The Government of Guatemala had

announced a timetable to disband completely the Voluntary Self-Defence Committees by 15 November 1996. President Alvaro Arzu had given priority since taking office to achieving peace, ensuring respect of human rights and ending impunity, and had set himself the goal of reaching a firm and lasting peace agreement within a year. He had therefore sponsored the negotiations in order to put an end to 36 years of armed conflict and lay the foundations for national reconciliation.

56. As a gesture of goodwill, and without prejudice to the peace negotiations, the President had decided to remove one of the main obstacles to agreement by disbanding and disarming the Voluntary Self-Defence Committees. A start had been made on 9 August 1996 in Huehuetenango, where the Committees of Colotenango, Barranco and Xemal had been disbanded in the presence of government officials and international observers, including the United Nations Mission for Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA). The timetable for disbanding the Committees would go ahead in three phases, with weapons being collected at each phase.

57. The Government of Guatemala firmly believed that differences should be resolved, not by confrontation and violence, but by dialogue and compromise. The decision to disband the Committees reflected the firm commitment of the Government to ensuring that the country's laws, as well as the rights and fundamental freedoms of the Guatemalan people, were respected.

58. The CHAIRMAN, on behalf of all his colleagues, welcomed the statement by the observer for Guatemala.

59. Mr. JOINET pointed out that it was a very satisfactory response to paragraph 11 of the Sub-Commission's carefully debated resolution 1995/7.

60. Mr. YOKOTA said that he wished to add two further points to his earlier statement. First, he had seen the letter of apology from the Prime Minister of Japan to the victims, and stressed it was not as described by one of the NGO speakers; the letter did express deep feelings of apology and remorse. Second, in her report (E/CN.4/1996/53/Add.1, para. 134), Ms. Coomaraswamy had welcomed the Japanese Government's initiative to create the Asian Women's Fund.

61. Mr. MAXIM said he had overlooked one point in his earlier proposal; in operative paragraph 2 of recommendation number 11 of the Working Group, "... took note of the useful information communicated by the Japanese Government" should be changed to "... welcomes the useful information ...".

62. Ms. TIMBERLAKE (Joint United Nations Programme on HIV/AIDS (UNAIDS)), speaking on agenda item 16 (c), said that HIV/AIDS should be considered a disability in terms of the discrimination that occurred because of it and in terms of the legal protection needed to guard against that discrimination. Further, in order to protect people facing discrimination because of actual or perceived notions of their abilities, the definitions of disability would need to move beyond functional descriptions of medical conditions. A person's health might actually impede his or her ability to participate in an activity, or might be wrongly perceived to impede that ability, or might mean they

required some accommodation if they were to participate fully in an activity. The criteria used to justify differential treatment were irrelevant and led to discrimination. HIV/AIDS should be viewed in that context; people who were HIV-positive but had no symptoms were able to do their normal work, as millions of the 21 million people living with HIV already did. Reasonable accommodations, such as flexible working hours, could enable people with symptoms of HIV-related disease to participate fully. However, many HIV sufferers were denied the possibility of being productive and equal members of society, as a result of discrimination based on mistaken perceptions of their ability to perform or the supposed threat they posed to public health. They might be discriminated against because they were seen to be, or were, members of a group already suffering from discrimination, such as homosexuals. The United States Supreme Court had recognized that the myths and fears about disability were as handicapping as the physical limitations of the disability itself.

63. The inclusion of HIV/AIDS in national disability laws had been one of the most effective means of combating HIV/AIDS-related discrimination in both the public and the private sector. A number of States, such as Australia, Canada and the United States, included HIV/AIDS in their laws prohibiting discrimination on the basis of health or disability. The most effective laws addressed all people with HIV, including the full spectrum from asymptomatic infection to AIDS as well as those merely perceived as having HIV or AIDS; employers and service providers were prohibited from discriminating in any way against HIV-positive people. While a person had to be qualified and well enough to perform a job adequately, the employer also had to provide reasonable accommodations.

64. At the present time, no international definition recognized HIV/AIDS as a disability. UNAIDS urged United Nations human rights bodies to consider not only clinical factors but also social and cultural factors in their articulation of internationally acceptable parameters of the term "disability". It asked the Sub-Commission to state that "disability" should be interpreted to include a person's HIV/AIDS status or perceived status, and to address HIV-related issues in its work on human rights and disabilities.

65. The human rights of people living with disabilities was one of the critical issues of the age; with the rapid advances in technology, it would soon be possible to tell if a person was likely to become ill with cancer or some other condition within, say, 10 years. She asked if that person would face the discrimination and stigmatization that people with apparent disabilities or detectable HIV were already facing in a world that increasingly rejected so-called "imperfect" specimens of the human species, or whether all human beings, differently able in one way or another, would be recognized as being equal in dignity and rights.

66. Mr. Ali Khan took the Chair.

67. Mr. ROMAZOTTI (International Movement ATD Fourth World), pointed out that the thirtieth anniversary of the adoption of the International Covenants on Human Rights coincided with the International Year for the Eradication of Poverty. The realization of human rights and the effort to combat poverty were inextricably linked, as was recognized explicitly in the third preambular

paragraph of the International Covenants. Mr. Despouy's final report on human rights and extreme poverty (E/CN.4/Sub.2/1996/13), also coinciding with the International Year, offered the hope of change for the world's poor and the NGOs who walked alongside them. The Sub-Commission therefore had a unique opportunity of establishing guidelines to create the mobilization necessary for the achievement of the objective proclaimed by the International Covenants. He hoped that by the year 2006, at the end of the United Nations Decade for the Eradication of Poverty, measurable progress would have been made in achieving the goals of the Covenants to allow each and every individual to enjoy their human rights.

68. Mr. SRIVASTAVA (International Institute for Non-Aligned Studies), speaking on agenda item 16, said that childhood and youth were a time for learning and play; unfortunately, children born in places like Afghanistan, Kashmir, Bosnia or Chechnya were growing up to the sound of guns and bullets. Worse still, some groups were placing weapons in children's hands.

69. In the field of health, the present generation had less to fear from natural diseases than man-made disasters, with drug abuse and AIDS occupying a dubious pride of place. Aberrations in social and moral behaviour were allowed in the name of individual freedoms, with the result that a lost generation without values was being created, in a climate of unbalanced economic prosperity and materialism. The present generation of parents needed to take a long look at themselves if their mistakes were to be rectified.

70. The poorer nations had been devastated by the march towards economic prosperity, as family structures collapsed and children were forced to work just to enable their families to eat and survive. Economic necessity was the reason behind child labour in factories and child prostitution. The answer to the problem did not lie in advice or sanctions, but in improving the standards of living of people living in the poor countries, and taking positive supportive action to reduce the exploitation of children.

71. Ms. BRETT (Friends World Committee for Consultation), speaking on agenda item 16, drew attention to a report, Children: The Invisible Soldiers, produced by the Quaker United Nations Office, Geneva, and the International Catholic Child Bureau. One of the issues it dealt with was the treatment of recruits in government armed forces. Child recruits, whether conscripts or volunteers, were often subjected to inhuman and degrading treatment designed to minimize their self-esteem, beginning with initiation rites that included beatings, humiliation and being introduced to prostitution and alcohol. Physical and mental damage, and even death (including suicide), often ensued. Such treatment, included kicking, punching and beating, burning with cigarettes, and the psychological pressure of threats, mockery and insults. That such treatment was allowed to happen in State institutions raised important questions on human rights and governmental responsibility, as well as on the subsequent behaviour of recruits as soldiers. It was not a problem confined to any one region or any one type of armed forces.

72. Her organization urged the Sub-Commission to undertake a study of the treatment of recruits in government armed forces, with a view to examining the

compatibility of such treatment with international human rights standards, considering how the human rights of recruits could be better protected, and considering the consequences of inhuman and degrading treatment on the subsequent behaviour of the armed forces.

73. Mr. Eide resumed the Chair.

74. Mr. WLASIC (Latin American Federation of Associations of Relatives of Disappeared Detainees), speaking on agenda item 16 said that he wished to draw attention to the repeated violation of the right to an identity, particularly in the case of children who had been victims of enforced disappearance, either their own or their parents. There were many obstacles to the restoration of their identity, including: domestic legislation that prevented or obstructed a rapid review of illegal or fraudulent adoptions; the absence of national legislation to deal with the phenomenon of enforced disappearances; the reluctance of courts to order compulsory tissue-matching and DNA tests to determine identity, even in cases where children had been illegally adopted; the use of legal rules, such as prescription, to delay investigations; the expense of tissue-matching and DNA tests and other relevant studies; and the lack of national legislation governing the return of children to their natural families.

75. Those obstacles could also be found in the context of other situations in which children were deprived of their right to an identity, such as inadequate birth registration procedures or the sale of or trafficking in young children, carried out against a background of inadequate legal protection and a social and economic situation which forced the poor to turn to it as a way to satisfy their most basic needs.

76. He recalled that the Convention on the Rights of the Child specifically recognized, in article 8, "the right of the child to preserve his or her identity", and the obligation for States, in cases where children were deprived of that right, to "provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity". His organization therefore requested the Sub-Commission to give priority to the right to an identity in the context of its consideration of the rights of the child.

ORGANIZATION OF WORK (continued)

77. Mrs. CARVALHO-FRIEDHEIM (Centre for Human Rights), responding to questions raised by some experts regarding the extent of their insurance coverage during the session, said that the "Rules governing compensation to members of commissions, committees or similar bodies in the event of death, injury or illness attributable to service with the United Nations" (ST/SGB/103/Rev.1) provided for the award of compensation only when the illness or accident occurred during the performance of duties and was attributable to the service rendered to the United Nations. The United Nations Joint Medical Service carried out a medical evaluation in such cases and the Advisory Board on Compensation Claims made a recommendation to the Secretary-General concerning the award of compensation. As members of commissions, committees or other bodies were therefore responsible for

obtaining private insurance coverage for other eventualities, the Centre for Human Rights was studying the possibility of offering optional coverage to individuals whose travel was paid for by the Organization.

78. Mr. ALFONSO MARTÍNEZ said that he had been hospitalized for cardiac problems the previous year while on mission to the Centre for Human Rights and had discovered on that occasion that he was personally responsible for defraying the hospital expenses. He proposed, with the support of Mrs. ATTAH and Mrs. WARZAZI, that a low-premium short-term insurance policy should be made available as a matter of urgency to persons on official United Nations business in Geneva.

79. Mrs. CARVALHO-FRIEDHEIM (Centre for Human Rights) said that a private company, Van Breda, offered comprehensive low-cost insurance coverage which was currently available to members of committees that met for long periods throughout the year. The Centre for Human Rights was currently negotiating similar coverage through New York for persons on short-term business and would do its best to complete the process before the end of the session.

The meeting rose at 6.05 p.m.